

**Court Interpreter Standing Committee
Strategic Planning Initiative
Report to the Judicial Council
September 12, 2006**

Introduction.

1. Language should not be a barrier to justice. Utah, like the rest of the nation, is home to increasingly diverse cultures with increasingly diverse languages, as well as simply growing numbers of people who are not fluent in English. A different language does not make the person who speaks it any less a resident, any less a taxpayer, any less a citizen, any less deserving of the benefits of our judicial process. By providing qualified court interpreters, we bridge the communication gap and improve access to justice.

Purpose of the Court Interpreter Program.

2. Our purpose is to provide qualified court interpreters. To that end, we look to improve recruitment, training, accountability, availability, and services. Language differences create difficulties on both sides of the barrier. Improvements will assist the client, to be sure, and also judges and court staff.

Summary Outline of the Court Interpreter Program.

3. In 1995, Utah was one of the first eight states to join the National Center for State Courts' Consortium for State Court Interpreters. The Judicial Council established the Court Interpreter Committee as an advisory panel in 1996. In February 2005 the Council recognized the panel as a standing committee. In the interim, the policies recommended by the committee and adopted by the Council have built a strong program dedicated to securing the rights of people who are unable to communicate in English. The committee meets bi-monthly and many court interpreters who are not members regularly attend, showing their interest and support for the program.

4. The Utah court interpreter program has three levels of qualification. From highest qualified to lowest, they are certified, approved, and conditionally approved. An interpreter can be certified in Spanish and, within the last year, Vietnamese. A Consortium of states organized through the National Center for State Courts has established minimum certification standards. Utah recognizes certifications issued by other Consortium states and the federal courts. For all other languages, as well as for Spanish and Vietnamese, an interpreter can be approved. Once certified or approved, the interpreter can interpret in any court. Conditional approval is a status decided by the judge when neither a certified nor an approved interpreter is available. The decision extends only to the hearing for which it is made.

5. All interpreters are independent contractors paid for their time and mileage under a formula in the court accounting manual. Interpreters are scheduled locally. Interpreters in the district and juvenile courts are paid through the AOC from a separate line item appropriated for that purpose at the rate set by the Judicial Council. Justice courts pay for interpreters from local funds at a rate of their choosing. Court employees may not be used as interpreters, except in limited circumstances.

6. The program is governed by Rule 3-306.

Goals and Tasks.

Goal 1. Improve recruitment of qualified interpreters.

7. Issue: Currently, Utah has 32 interpreters certified in Spanish, one certified in Vietnamese, one federally certified in Navajo, and 84 approved interpreters in 39 languages. On the demand side, in 2005 there were 6,400 reported hearings with interpreters in the state courts. This does not include justice court hearings nor the many unreported state court hearings. Further, the courts compete for the interpreters' time with attorneys, medical practitioners, the federal courts, federal and state agencies and other individuals and organizations.

8. Judges report that interpreters in Spanish, which is by far the most common need, are usually available but that we still have need for more. Availability in less-common languages is problematic. Interpreters, even in Spanish, can be difficult to schedule in remote courts. The relative frequency of languages is a moving target. A language seldom spoken in Utah a few years ago may be more common today.

Tasks:

- (A) Develop partnerships with public and private universities to encourage interpreting as a career.
- (B) Re-examine minimum qualifications for approved interpreters.
- (C) Develop and maintain multi-language testing and non-specific language skills classes.
- (D) Support local and state recruiting efforts.
- (E) Improve recruitment in less common languages.
- (F) Re-examine the employment/contract relationship between the interpreter and the courts.
- (G) Re-examine the structure for interpreter fees.
- (H) Consider assessing interpreter fees as costs to a convicted defendant in criminal cases, subject to the ability to pay, similar to costs of representation.
- (I) Research trends in immigration and languages used in the courtroom to anticipate need.

Goal 2. Improve interpreter training.

9. Issue: The interpreter program has sufficient initial education and testing for interpreters certified in Spanish but only a few continuing education opportunities. The program has modest initial education for approved interpreters, no tests except for Spanish interpreters and no continuing education requirements.

10. To be certified, one must attend a two-day class, pass a three-part skills examination and an ethics exam, and attend ten hours of in-court observation. The skills exam uses a nationally approved test and nationally approved standards to test English skills, Spanish skills, and interpreting skills. In addition to these requirements, the AOC offers a five-day class to prepare for the examinations, but the class is not required.

11. Certified interpreters must obtain 16 hours of continuing education every two years. There are opportunities in the community to meet this requirement, but in the 2004 – 2005 biennium the courts offered only one skills-building class and one ethics class. Although the 16-hour requirement is less than half that of court employees and only one-quarter that of judges, four certified interpreters did not meet the requirement within the deadline.

12. The second level of qualification, approved, has a one-day orientation class that includes an introduction to court interpreting, the interpreters' code of ethics and court procedure. Approved interpreters also must observe ten hours of court interpreting. For approved Spanish interpreters, we briefly assess English and Spanish skills, but for other languages we do not. We have a pilot mentoring prerequisite for certified and approved interpreters, but it has not moved beyond a pilot program in the Third District. There is no continuing education requirement for approved interpreters. Judges report that certified interpreters are highly skilled, but that the quality of interpretation falls off dramatically among approved interpreters.

13. Interpreting is a skill much more complex than just speaking the language. Carrying on a conversation in Spanish does not qualify one for interpreting in Spanish. Consider that most English-speakers become horribly lost merely trying to repeat, simultaneously or consecutively, the words of another English-speaker.

14. A special part of education is familiarity with and application of the interpreters' code of ethics. The interpreter is bound by a code of ethics just like the judge, just like the lawyers, just like the clerk. Yet even if the interpreter understands the ethical responsibilities of a situation, which may not always be the case, others often do not. Often the interpreter is directed to serve in a capacity outside the scope of his or her responsibilities – to serve in a capacity that is prohibited, or at least limited, by the code of ethics. The professional presence of the interpreter in the courtroom is of recent vintage. We struggle with issues that result simply from unfamiliarity.

Tasks:

- (A) Develop partnerships with public and private universities to provide initial and continuing education opportunities.

- (B) Require initial skills training for certified interpreters.
- (C) Develop and require initial skills training and testing for approved interpreters.
- (D) Develop continuing skills training opportunities for certified interpreters.
- (E) Study continuing skills training requirements and opportunities for approved interpreters.
- (F) Expand initial and continuing training in ethics.
- (G) Develop a summary description of the interpreter's role for use in the courtroom.
- (H) Develop classes for judges and staff in the ethics and role of interpreters.
- (I) Develop classes for interpreter coordinators in the availability of American Sign Language interpreters.
- (J) Integrate cultural training, especially English and Spanish legal and social cultures, as part of training opportunities.
- (K) Develop local training opportunities.
- (L) Develop orientation class for new interpreters.
- (M) Improve continuing education monitoring and recordkeeping.

Goal 3. Improve interpreter availability.

15. Issue: Court calendars are fluid. Hearings are scheduled and rescheduled on short notice. Short hearings go overtime. Long hearings conclude quickly. The time between hearings can be a few minutes or a few hours. Some courts use a rotation system for scheduling interpreters; others have their favorite person; others take whomever is available. Ensuring the simultaneous presence of the judge, prosecutor, defense counsel, defendant and interpreter is difficult. The long distances separating courthouses make a difficult situation even worse. If the hurdles to scheduling an interpreter are too high, courts may sometimes try to muddle through rather than postpone a hearing. Interpreters and court personnel alike suffer the consequences of scheduling problems. Given the dynamic nature of the process, scheduling an interpreter will always be difficult, but we should be able to improve.

Tasks:

- (A) Investigate the costs and benefits of centralized interpreter scheduling.
- (B) Investigate local interpreter scheduling using a centralized calendar.
- (C) Investigate best practices for interpreter scheduling.
- (D) Develop incentives against cancellations by interpreters.
- (E) Research technological solutions.
- (F) Research the needs of district, juvenile, and justice courts. Serve those different needs.
- (G) Research the needs of urban and rural courts. Serve those different needs.

Goal 4. Improve interpreter accountability.

16. Issue: Currently, there is no recognized process for evaluating an interpreter. Presumably, a court declines to schedule an interpreter whose performance is

particularly poor. Aside from not scheduling an interpreter and removing him or her from the list, there are few discipline options.

- (A) Develop a process for evaluating interpreters.
- (B) Develop a process for issuing ethics opinions.
- (C) Develop a process for making a complaint about an interpreter.
- (D) Evaluate the adequacy of the current discipline process.
- (E) Improve interpreter performance and discipline recordkeeping.

Goal 5. Improve translation services.

17. Issue: The most common service of interpreters is, of course, interpreting in court. However, the people who cannot speak English in their courtroom appearance also will not be able to read the many pamphlets and forms produced by the courts. Translating documents has never been the primary role of the interpreter program, but it is an important role.

- (A) Develop multi-language pamphlets about the interpreter program.
- (B) Translate pamphlets and forms into Spanish.

Goal 6. Establish the role of the committee.

18. Issue: During the planning meeting divergent views were expressed about the proper role of the committee. Some favored a more hands-on approach to the day-to-day issues facing interpreters, judges, staff and others. Others argued for a more policy-oriented approach, leaving operations to the people on the ground. By pursuing the goals and tasks in this strategic plan, the committee will have no choice but to assume a policy level role – not setting policies, but recommending them to the Judicial Council. In recommending a policy, part of the committee’s responsibility will be to recommend its own continuing role and that of the judges, coordinators, clerks, and the AOC.

Tasks: Consider, as part of its discussions, the role of the committee and others in:

- (A) Recommending policy.
- (B) Developing programs.
- (C) Evaluations.
- (D) Ethics opinions.
- (E) Discipline.
- (F) Solving problems: with interpreters; with judges; with staff; with lawyers; with clients; with process.

Committee Interpreter Committee

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